

# TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Audit and Governance Committee
<b>Date of Meeting:</b>	21 July 2021
<b>Subject:</b>	Counter Fraud Unit Report
<b>Report of:</b>	Counter Fraud Unit Manager
<b>Corporate Lead:</b>	Head of Finance and Asset Management
<b>Lead Member:</b>	Lead Member for Corporate Governance
<b>Number of Appendices:</b>	1

## **Executive Summary:**

To provide the Audit and Governance Committee with assurance over the counter fraud activities of the Council.

Work plans are presented to the Audit and Governance Committee detailing progress and results for consideration and comment as the body charged with governance in this area.

The Counter Fraud Unit will continue to provide Audit and Governance Committee with direct updates biannually, for Tewkesbury Borough Council this will be at the July and December meetings.

The report provides the annual update to Audit and Governance Committee in relation to the Regulation of Investigatory Powers Act 2000 (RIPA), the Investigatory Powers Act 2016 (IPA) and the Council's existing policies and arrangements.

## **Recommendation:**

**To CONSIDER the annual update on the work of the Counter Fraud team.**

## **Reasons for Recommendation:**

The Audit and Governance Committee oversees the Council's counter fraud arrangements and it is therefore appropriate for the Committee to be updated in relation to counter fraud activity.

In administering its responsibilities, this Council has a duty to prevent fraud and corruption, whether it is attempted by someone outside or within the Council such as another organisation, a resident, an employee or Councillor.

The Council is committed to an effective counter fraud and corruption culture, by promoting high ethical standards and encouraging the prevention and detection of fraudulent activities, thus supporting corporate and community plans.

## **Resource Implications:**

The report details financial savings generated by the Counter Fraud Unit.

**Legal Implications:**

In general terms, the existence and application of an effective fraud risk management regime assists the Council in effective financial governance which is less susceptible to legal challenge.

The Council is required to ensure that it complies with the Regulation of Investigatory Powers Act 2000, the Investigatory Powers Act 2016 and any other relevant/statutory legislation regarding investigations. Any authorisations for directed/covert surveillance or the acquisition of communications data undertaken should be authorised by the appropriate Officer and recorded in the Central Register.

**Risk Management Implications:**

The Council is required to proactively tackle fraudulent activity in relation to the abuse of public funds. The Counter Fraud Unit provides assurance in this area.

Failure to undertake such activity would accordingly not be compliant and expose the authority to greater risk of fraud and/or corruption. If the Council does not have effective counter fraud and corruption controls it risks both assets and reputation.

The RIPA and IPA Policies demonstrate the Council's consideration of necessity, proportionality and public interest when deciding on surveillance activity or the decision to obtain personal communication data. The application of the policies and procedures to govern surveillance and the obtaining of personal communications data minimises the risk that an individual's human rights will be breached. Furthermore, it protects the Council from allegations of the same.

**Performance Management Follow-up:**

Regular updates are provided by the Counter Fraud Unit Manager to the Head of Finance and Asset Management and the Head of Corporate Services. Biannual reports in relation to counter fraud work will be made to the Audit and Governance Committee.

Internal Audit and the Counter Fraud Unit have a formalised protocol and meet to review the current work plan and assess any areas of risk.

Policy documentation will be presented when required to the Management Team.

**Environmental Implications:**

Not applicable.

**1.0 INTRODUCTION/BACKGROUND**

**1.1** The Audit and Governance Committee oversees the Council's counter fraud arrangements and it is therefore appropriate for the Committee to be updated in relation to counter fraud activity.

**1.2** Work plans have been agreed with the Chief Finance Officer and Corporate Management. The Audit and Governance Committee, as the body charged with governance in this area, is presented with a copy of the work plan for information.

**1.3** Attached at Appendix 1 is the work plan for 2021/2022.

## **2.0 WORK PROGRAMME RESULTS**

- 2.1** The Counter Fraud Unit has been supporting workstreams created as a consequence of the COVID-19 pandemic by providing advice relating to fraud risk and abuse, most significantly in relation to the business grants. The Counter Fraud Unit has received seven referrals and some cases are still under review or have been confirmed as eligible. Two cases of loss prevention, in that grant monies were not paid totalling £2,668, have been referred back to the team and an ineligible claim for £19,550 is being pursued.
- 2.2** All local authorities participate in the Cabinet Office's National Fraud Initiative, which is a data matching exercise to help prevent and detect fraud nationwide. The use of data by the Cabinet Office in a data matching exercise is carried out with statutory authority under Part 6 of the Local Audit and Accountability Act 2014. It does not require the consent of the individuals concerned under Data Protection Legislation.
- 2.3** Matches have now been received via the Cabinet Office's National Fraud Initiative which has collated and compared business grant data nationwide in relation to the original schemes. This is in addition to the matches relating to Council Tax and the Council Tax Reduction Scheme which the Council receive, and the Counter Fraud Unit review, each year. The team will be reviewing all matches.
- 2.4** A number of cases involving serious offences against animals continues to be submitted from the RSPCA's Inspectorate and this is expected to increase as the financial and psychological consequences of the pandemic continue to impact on people's ability to look after their animals. The Counter Fraud Unit is actively collaborating with the RSPCA proposing better working relationships with the partner councils, to include new data sharing agreements, as the number of referrals increase.
- 2.5** A review of the Housing List has been completed. The team has reviewed applications within Emergency Band (51 applications), Gold Band (77 applications) and Silver Band (580 applications). 282 discrepancies have been referred to the team and, so far, 32 applications have been removed from the Emergency and Gold Lists. Each cancelled housing application represents a property which can be reallocated to another eligible family. The National Fraud Initiative applies a figure of £3,240 for each application removed, to represent the value of future losses prevented as a result of removing an applicant. This represents a saving on the cost of temporary accommodation. In addition, the result of the band re-prioritisation is that those families who are correctly banded have a greater chance of being housed and housed more speedily. The loss avoidance figure for this piece of work is £103,680.
- 2.6** In addition to Appendix 1, as a dedicated investigatory support service, the Counter Fraud Unit undertakes a wide range of enforcement and investigation work according to the requirements of each Council. This includes criminal investigation and prosecution support for enforcement teams, investigations into staff/member fraud and corruption, or tenancy and housing fraud investigation work.

## 2.7 Summary of work:

- During 2020/2021, the team received 45 referrals from across the Council and closed 42 cases. As at 1 April 2021, there were 27 cases open and the team has received a further nine referrals and closed 13 cases.
- The Counter Fraud Unit has been tasked with undertaking the investigation of alleged fraud and abuse in relation to the Council Tax Reduction Scheme (Council Tax Support) and is the single point of contact for Department for Work and Pensions (DWP) Housing Benefit investigations.
- During 2020/21, 22 Civil Penalties and two Criminal Penalties have been applied totalling £2,910 and increased Council Tax revenue of £28,027 has been raised.
- In addition, an individual was successfully prosecuted, following a guilty plea and received a six month Community Order, a seven day Rehabilitation Activity Requirement, was fined £120 and ordered to pay costs of £85. The case related to £1,173 of fraudulently claimed Council Tax Reduction Scheme funds.
- Since 1 April 2021, a further seven Civil Penalties have been applied totalling £410 and increased Council Tax revenue of £2,162 has been raised.

The team continues to process enquiries for the Department for Work and Pensions.

## 3.0 **REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) / INVESTIGATORY POWERS ACT 2016 (IPA) UPDATE**

- 3.1 The Council's policies are based on the legislative requirements of these Acts and the Codes of Practice relating to directed surveillance and the acquisition of communications data.
- 3.2 The policies were reviewed and presented to Audit and Governance Committee in September 2020; these were adopted by Executive Committee in November 2020.
- 3.3 The Council must have a Senior Responsible Officer and Authorising Officers to approve the application before the Court is approached. The Senior Responsible Officer is the Borough Solicitor and the Authorising Officers are the Head of Finance and Asset Management and the Head of Community Services.
- 3.4 There have been no RIPA applications and no non-RIPA applications made by the Council during 2020/21. There have been no applications for communications data.
- 3.5 All applications for communications data are made online via the National Anti-Fraud Network (NAFN) which acts as the single point of contact for councils. There is a requirement for the Council to nominate a Designated Senior Officer who will confirm to NAFN that the Council is aware of any request and approves its submission. This role is undertaken by the Counter Fraud Unit Manager and the Deputy Counter Fraud Unit Manager.
- 3.6 The Council takes responsibility for ensuring its procedures relating to surveillance and the acquisition of communications data are continuously improved and all activity is recorded.
- 3.7 As outlined in the Inspection Report, an updated policy relating to open source intelligence gathering is presented to Audit and Governance Committee.

## 4.0 **OTHER OPTIONS CONSIDERED**

- 4.1 None

## **5.0 CONSULTATION**

5.1 Work plans have been agreed with the Head of Finance and Asset Management and the Head of Corporate Services.

## **6.0 RELEVANT COUNCIL POLICIES/STRATEGIES**

6.1 Counter Fraud and Anti-Corruption Policy.

Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy.  
Corporate Enforcement Policy.

Regulation of Investigatory Powers Act 2000 (Surveillance and CHIS) Policy

Investigatory Powers Act 2016 (Acquisition of Communication Data) Policy

## **7.0 RELEVANT GOVERNMENT POLICIES**

7.1 None

## **8.0 RESOURCE IMPLICATIONS (Human/Property)**

8.1 The promotion of effective counter fraud controls and a zero-tolerance approach to internal misconduct promotes a positive work environment.

## **9.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**

9.1 This is a positive example of joint working across the County. The existence of counter fraud activity acts as a deterrent to the abuse of public funds which impacts positively on the economy and local demographic.

## **10.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)**

10.1 The service is a shared one across the county, as such, overheads and management costs are also shared equally meaning there is increased value for money.

10.2 The application of the RIPA and IPA policies, to govern surveillance and the obtaining of personal communications data, ensures there is less risk that an individual's human rights will be breached. Furthermore, it protects the Council from allegations of the same.

## **11.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**

11.1 None

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**Background Papers:** Report to Council -January 2017; Counter Fraud Business Case

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**Appendices:** Appendix 1 – Work Plan 2021/22